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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,300	06/15/2001	Lieven De Veylder	2364/300 (C 2681 US)	7567

7590
Ann M Pokalsky
Nixon Peabody
990 Stewart Avenue
Garden City, NY 11530

10/03/2002

EXAMINER

COLLINS, CYNTHIA E

ART UNIT	PAPER NUMBER
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1638

DATE MAILED: 10/03/2002

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/868,300

Applicant(s)

DE VEYLDER ET AL.

Examiner

Cynthia Collins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspond nc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 and 41-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-34 and 41-46 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1, 4-9, 10 and 14-23, drawn to a DNA sequence encoding a cell cycle interacting protein, a vector, a host cell, a method for the production of transgenic plants, a transgenic plant and plant cell.

Group II, claim(s) 2-3, drawn to a method for identifying and obtaining cell cycle interacting proteins.

Group III, claim(s) 11 and 30, drawn to a cell cycle interacting protein, and a method for identifying and obtaining an activator or inhibitor of cell division.

Group IV, claim(s) 12, drawn to an antibody that specifically recognizes a cell cycle interacting protein.

Group V, claim(s) 24-29, drawn to a regulatory sequence, a host cell, a transgenic plant and a method for identification of an activator or inhibitor of cell cycle interacting proteins or their encoding genes.

Group VI, claim(s) 31 and 33, drawn to a method of producing a therapeutic agent and a method of producing a therapeutic composition.

Group VII, claim(s) 32 and 33, drawn to a method of producing a plant effective agent and a method of producing a plant effective composition.

Group VIII, claim(s) 34, drawn to an activator or inhibitor of cell division.

Group IX, claim(s) 41-43, drawn to a method for improving the tolerance of plants toward suboptimal nutrient conditions, and a method for providing enhanced rate or frequency of seed germination.

Group X, claim(s) 44-46, drawn to a method of positive or negative selection.

For Groups I-IV and VI-X above, restriction to one of Groups (A)-(L) is also required under 35 U.S.C. 121 and 372. Therefore, if Applicant elects any of Groups I-IV and VI-X above, one of Groups (A)-(L) must also be elected.

- (A) SEQ ID NO:1 and SEQ ID NO:2
- (B) SEQ ID NO:3 and SEQ ID NO:4
- (C) SEQ ID NO:33 and SEQ ID NO:34
- (D) SEQ ID NO:35 and SEQ ID NO:36
- (E) SEQ ID NO:37 and SEQ ID NO:38
- (F) SEQ ID NO:39 and SEQ ID NO:40
- (G) SEQ ID NO:41 and SEQ ID NO:42
- (H) SEQ ID NO:5 and SEQ ID NO:6
- (I) SEQ ID NO:7 and SEQ ID NO:8
- (J) SEQ ID NO:9 and SEQ ID NO:10
- (K) SEQ ID NO:11 and SEQ ID NO:12

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(L) SEQ ID NO:13 and SEQ ID NO:14

The inventions listed as Groups I-X do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The technical feature linking the inventions of Groups I-VIII appears to be a DNA sequence encoding a cell cycle interacting protein. However, a DNA sequence encoding a cell cycle interacting protein is obvious or anticipated over Culianez-Macia et al. (EMBL Accession Nos. U80192, AF166263 and Y09716, 19 January 1997, Applicant's Search Report), and therefore does not constitute a special technical feature as defined by PCT Rule 13.2, because it does not define a contribution over the prior art.

The special technical feature of Invention I is a transgenic plant comprising a DNA sequence encoding a cell cycle interacting protein, which is not a special technical feature of Groups II-X. The special technical feature of Invention II is a method for identifying and obtaining cell cycle interacting proteins, which is not a special technical feature of Groups I and III-X. The special technical feature of Invention III is a cell cycle interacting protein, which is not a special technical feature of Groups I-II and IV-X. The special technical feature of Invention IV is a an antibody that specifically recognizes a cell cycle interacting protein, which is not a special technical feature of Groups I-III and V-VIII. The special technical feature of Invention V is a regulatory sequence, which is not a special technical feature of Groups I-IV and VI-X. The special technical feature of Invention VI is a therapeutic agent or composition, which is not a special technical feature of Groups I-V and VII-X. The special technical feature of Invention VII is a plant effective agent or composition which is not a special technical feature of Groups I-VI

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and VIII-X. The special technical feature of Invention VIII is an activator or inhibitor of cell division, which is not a special technical feature of Groups I-VI and IX-X. The special technical feature of Invention IX the modulation of PLP expression and/or activity, which is not a special technical feature of Groups I-VIII and X. The special technical feature of Invention X is use of PLP as a marker during plant cell transformation, which is not a special technical feature of Groups I-IX. The special technical feature of each of Inventions (A)-(L) is the structurally and functionally distinct nucleotide or amino acid sequence of each SEQ ID NO:.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Remarks

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia Collins whose telephone number is (703) 605-1210. The examiner can normally be reached on Monday-Friday 8:45 AM -5:15 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson can be reached on (703) 306-3218. The fax phone numbers for the

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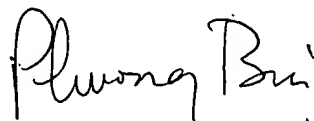
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organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

CC
October 1, 2002


PHUONG T. BUI
PRIMARY EXAMINER 10/1/02